

Building Material and Dump Trucks Drivers, Teamsters Local Union No. 36, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (E. R. Stong Building Materials Co.) and Kenyon L. Ackley, Case 21-CB-7097

21 August 1984

SUPPLEMENTAL DECISION AND ORDER

**BY CHAIRMAN DOTSON AND MEMBERS
ZIMMERMAN AND HUNTER**

On 7 July 1983 the National Labor Relations Board issued its Decision and Order in this proceeding¹ finding that the Respondent violated Section 8(b)(1)(A) by, pursuant to a union constitutional provision,² imposing a court-collectible fine on employee Kenyon L. Ackley for crossing the Respondent's picket line after he had resigned from the Respondent. The Board, sua sponte, has decided to reconsider this case.

We now affirm our conclusion that the Respondent violated Section 8(b)(1)(A)³ but we do so for the reasons set forth in *Machinists Local 1414 (Neufeld Porsche-Audi)*, 270 NLRB 1330 (1984). In that case the Board held that any restriction imposed on a union member's right to resign is invalid. In accord with *Neufeld Porsche-Audi* we shall modify our original Order to require the Respondent to cease and desist from maintaining the invalid restriction on resignation and to expunge it from its governing documents.

ORDER

The National Labor Relations Board affirms as its Order the Order entered in this proceeding on 7 July 1983 (266 NLRB 1057) as modified.

1. Insert the following as paragraph 1(a) and re-letter the subsequent paragraphs.

"(a) Maintaining in its governing documents article II, section 2(h) of the constitution of the International Brotherhood of Teamsters, Chauffeurs,

¹ 266 NLRB 1057.

² The constitution of the International provides in art. II, sec. 2(b) that: No member may resign from his membership in the International Union or any subordinate body before he has paid all dues, assessments, fines and other obligations owing to the International Union and all its subordinate bodies. A resignation must be in writing to the Secretary-Treasurer of the Local Union. After the Secretary-Treasurer has determined that the foregoing requirements have been complied with, such resignation shall then be effective thirty (30) days after its receipt by the Secretary-Treasurer.

³ In finding the violation alleged, Member Zimmerman affirms his position fully set forth in fn. 2 of the original Decision and Order. He relies solely on the judge's finding that Ackley had insufficient notice of the constitutional limitations on resignation from membership in the Respondent. He therefore finds it unnecessary to pass on whether the provision is a valid limitation on the right to resign, or that it should be expunged from the International Union's constitution.

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Warehousemen and Helpers of America to the extent it provides that:

"No member may resign from his membership in the International Union or any subordinate body before he has paid all dues, assessments, fines and other obligations owing to the International Union and all its subordinate bodies. A resignation must be in writing to the Secretary-Treasurer of the Local Union. After the Secretary-Treasurer has determined that the foregoing requirements have been complied with, such resignation shall then be effective thirty (30) days after its receipt by the Secretary-Treasurer."

2. Insert the following as paragraph 2(a) and re-letter the subsequent paragraphs.

"(a) Expunge from its governing documents article II, section 2(h) of the constitution of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America set forth above."

3. Substitute the attached notice for that of the administrative law judge.

APPENDIX

**NOTICE TO MEMBERS
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT maintain in our governing documents article II, section 2(h) of the International constitution which provides:

No member may resign from his membership in the International Union or any subordinate body before he has paid all dues, assessments, fines and other obligations owing to the International Union and all its subordinate bodies. A resignation must be in writing to the Secretary-Treasurer of the Local Union. After the Secretary-Treasurer has determined that the foregoing requirements have been complied with, such resignation shall then be effective thirty (30) days after its receipt by the Secretary-Treasurer.

WE WILL NOT fine nor threaten to fine you for crossing a picket line to work after you have lawfully resigned from membership.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exer-

cise of the rights guaranteed you by Section 7 of the Act.

WE WILL expunge article II, section 2(h) of the International constitution from our governing documents.

WE WILL rescind the fine levied against Kenyon L. Ackley because he worked at E. R. Stong Building Materials Co. after his lawful resignation from membership during the strike and refund any

money he may have paid as a result of such fine, plus interest.

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